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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,343	01/24/2002	Hirofumi Takagi	3815/148	1516

7590 01/26/2005

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EXAMINER
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PEREZ, ANGELICA

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/057,343

Applicant(s)

TAKAGI ET AL.

Examiner

Angelica M. Perez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09-20-2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Objection to the Specification***

1. The amendment filed on September 20, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "communication type determining means for determining a communication type based on a shape of the mobile station".

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

2. Claims 1-5, 9-10, 12-1-16 and 20-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Provisional rejection is provided based on applicant's submitted claims prior to changes to the specifications and claims.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 3, 6, 10-11 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Irvin (Irvin, David R.; WO Publication No.: 98/51108).

Regarding claim 3, Irvin teaches of a mobile station (page 1, lines 1-3; e.g., "mobile communication device"), comprising: transmitting means for transmitting a signal (figure 1, item 26); and transmission power limit setting means for setting a transmission power limit based on based on whether or not an external device is connected to the mobile station, (figure 1, item 38; where the power control controls the power depending on the usage also, page 6, lines 12-13; where the docking station is a device that is connected to the mobile station), where the transmitting means transmits the signal in accordance with the transmission power limit set by the transmission power limit setting means (page 5, lines 4-6; Irvin teaches where the power control logic limits the maximum power of the telephone when it is operated in the hand-held mode).

Regarding claim 6, 10, 11 Irvin teaches of a mobile station (page 1, lines 1-3; e.g., "mobile communication device"), comprising: transmitting means for transmitting a

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signal (figure 1, item 26); and transmission power limit setting means for setting a transmission power limit based on whether or not an external device is connected to the mobile station and a shape of the mobile station and/or a shape of the external device (figure 1, item 38; where the power control controls the power depending on the usage even without an external device being connected to it or without depending on the shape of the device), where the transmitting means transmits the signal in accordance with the transmission power limit set by the transmission power limit setting means (page 5, lines 4-6; where the power control logic limits the maximum power of the telephone when it is operated in the hand-held mode).

Regarding claim 14, Irvin teaches of a transmission method for transmitting a signal at a mobile station (page 15, lines 1-3), comprising the steps of: setting a transmission power limit based on whether or not an external device is connected to the mobile station (figure 1, item 38; where the power control controls the power depending on the usage also, page 6, lines 12-13; where the docking station is a device that is connected to the mobile station); and transmitting the signal in accordance with the set transmission power limit (page 5, lines 4-6; where the power control logic limits the maximum power of the telephone when it is operated in the hand-held mode).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 4-5, 7-9, 12-13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irvin (Irvin, David R.; WO Publication No.: 98/51108) in view of Nagasawa (Nagasawa, Naokazu; US Publication No.: 2004/0,077,386 A1).

Regarding claim 1, Irvin teaches of a mobile station (page 1, lines 1-3; e.g., "mobile communication device"), comprising: transmitting means for transmitting a signal (figure 1, item 26); and transmission power limit setting means for setting a transmission power limit based on a shape of the mobile station (figure 1, item 38; where the power control controls the power depending on the usage), where the transmitting means transmits the signal in accordance with the transmission power limit set by the transmission power limit setting means (page 5, lines 4-6; where the power control logic limits the maximum power of the telephone when it is operated in the hand-held mode).

Irvin does not teach where the transmission power limit is based on a shape of the mobile station.

In related art concerning a folding portable telephone apparatus, Nagasawa teaches where the transmission power limit is based on a shape of the mobile station (paragraphs 0005 and 0007; where the folding provides a pocket game capability and unfolded functions as a telephone. E.g., folded/unfolded correspond to the "shapes" and unfolded/folded positions set the device to different power consumption levels).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to combine Irvin's power limit setting device with Nagasawa's

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unfold/fold position mode in order to allocate only the needed power to each application in order to save power.

Regarding claim 9, Irvin teaches of a communication system (figure 1 and page 8, lines 2-3; where the mobile terminal and base stations comprise a system), comprising: a mobile station (figure 1) and an external device connectable to the mobile station (figure 1, item 38; where the power control controls the power depending on the usage also, page 6, lines 12-13; where the docking station is a device that is connected to the mobile station), where the mobile station comprises, transmitting means for transmitting a signal, and transmission power limit setting means for, and where the transmitting means transmits the signal in accordance with the transmission, power limit set by the transmission power limit setting means (figure 1, item 38; where the power control controls the power depending on the usage); Nagasawa teaches where the transmission power limit is based on a shape of the mobile station (paragraphs 0005 and 0007; where the folding provides a pocket game capability and unfolded functions as a telephone. E.g., folded/unfolded correspond to the "shapes" and unfolded/folded positions set the device to different power consumption levels).

Regarding claim 12, Irvin teaches of a transmission method for transmitting a signal at a mobile station (page 13, 1-18), comprising the steps of: setting a transmission power limit (page 5, lines 4-7); and transmitting the signal in accordance with the set transmission power limit (page 5, lines 4-6; where the power control logic limits the maximum power of the telephone when it is operated in the hand-held mode). Nagasawa teaches where the transmission power limit is based on a shape of the

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mobile station (paragraphs 0005 and 0007; where the folding provides a pocket game capability and unfolded functions as a telephone. E.g., folded/unfolded correspond to the “shapes” and unfolded/folded positions set the device to different power consumption levels).

Regarding claim 17, Irvin teaches of a transmission method for transmitting a signal at a mobile station (page 13, lines 1-18), comprising the steps of: setting a transmission power limit based on whether or not an external device is connected to the mobile station (figure 1, item 38; where the power control controls the power depending on the usage also, page 6, lines 12-13; where the docking station is a device that is connected to the mobile station), and Nagasawa teaches where the transmission power limit is based on a shape of the mobile station (paragraphs 0005 and 0007; where the folding provides a pocket game capability and unfolded functions as a telephone. E.g., folded/unfolded correspond to the “shapes” and unfolded/folded positions set the device to different power consumption levels); and transmitting the signal in accordance with the set transmission power limit (page 5, lines 4-6; where the power control logic limits the maximum power of the telephone when it is operated in the hand-held mode).

Regarding claims 2, 13, 16 and 19, Irvin in view of Nagasawa teaches all the limitations of claim 1, 12, 14 and 17, respectively. Nagasawa further teaches where the transmission power limit setting means sets the transmission power limit either for voice communication or for moving image communication (paragraphs 0005 and 0007; e.g., “pocket game” provides “moving image” and “telephone” provides “voice communication”).



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Regarding claims 4 and 7, Irvin in view of Nagasawa teaches all the limitations of claim 3 and 6, respectively. Nagasawa further teaches where the external device is one of an external camera, a personal computer, a viewer, and a PDA (paragraph 0059, lines 14-15; where the examiner has selected an external camera from the choices provided).

Regarding claims 15 and 18, Irvin in view of Nagasawa teaches all the limitations of claims 14 and 17, respectively. Nagasawa further teaches where the external device is one of an external camera, a personal computer, a viewer, and a PDA (paragraph 0059, lines 14-15; where the examiner has selected an external camera from the choices provided).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angelica Perez whose telephone number is 703-305-8724. The examiner can normally be reached on 7:15 a.m. - 3:55 p.m., Monday - Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either the PAIR or Public PAIR. Status information

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for unpublished applications is available through the Private PAIR only. For more information about the pair system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2600's customer service number is 703-306-0377.

  
Angelica Pérez  
(Examiner)

  
NAY MAUNG  
SUPERVISORY PATENT EXAMINER

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January 14, 2005